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HOUSE BILL 1063

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTIONS; PROVIDING DEFINITIONS; PRESCRIBING
DUTIES AND TRAINING PROCEDURES; REQUIRING CERTIFICATION OF
PRESIDING JUDGES; PROVIDING FOR COUNTY CANVASS OBSERVERS;
CHANGING FILING DATES FOR INDEPENDENT AND WRITE-IN CANDIDATES;
CHANGING REGISTRATION PROCEDURES; PROVIDING FOR EARLY
PROCESSING OF ABSENTEE BALLOTS; REQUIRING A PAPER RECORD OF
VOTES; REQUIRING VOTER IDENTIFICATION FOR IN-PERSON AND
ABSENTEE VOTING; PRESCRIBING POLL WORKER DUTIES ON ELECTION
DAY; REQUIRING STANDARDS FOR COUNTING PROVISIONAL BALLOTS;
CHANGING PROVISIONS FOR POLLWATCHERS; MAKING AN APPROPRIATION;
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW;
AMENDING, ENACTING, REPEALING AND RECOMPILING SECTIONS OF THE
NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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1 Section 1. A new section of Chapter 1, Article 1 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] COMPUTATION OF TIME--DEADLINES.--For the
4 purpose of the Election Code, time periods of less than eleven
5 days shall be computed as calendar days; provided, however,
6 that if an actual deadline falls on a weekend or state-
7 recognized holiday, the next business day shall be the
8 deadline."

9 Section 2. A new section of Chapter 1, Article 1 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] NEW REGISTRANT.--As used in the Election
12 Code, "new registrant" means a person who was not registered to
13 vote in the state at the time the person registered to vote."

14 Section 3. A new section of Chapter 1, Article 1 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] REGISTRATION AGENT.--As used in the
17 Election Code, "registration agent" means a state or federal
18 employee who provides voter registration at a state agency or
19 any other individual who assists another person in completion
20 of a voter registration application."

21 Section 4. Section 1-1-16 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 16, as amended) is amended to read:

23 "1-1-16. REGISTRATION OFFICER.--As used in the Election
24 Code, "registration officer" means the secretary of state, a
25 county clerk or [~~his~~] a clerk's authorized deputy [~~or~~], a

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1 member of the board of registration or a state employee
2 performing registration duties in accordance with the federal
3 National Voter Registration Act of 1993 or Section 1-4-5.2 NMSA
4 1978."

5 Section 5. A new section of Chapter 1, Article 1 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] UNIQUE IDENTIFIER.--As used in the
8 Election Code, "unique identifier" means the last four digits
9 of a voter's social security number."

10 Section 6. A new section of Chapter 1, Article 1 NMSA
11 1978 is enacted to read:

12 "[NEW MATERIAL] REQUIRED VOTER IDENTIFICATION.--As used in
13 the Election Code, "required voter identification" means any of
14 the following forms of identification as chosen by the voter:

15 A. a physical form of identification, which may be:

16 (1) an original or copy of a current and valid
17 photo identification with or without an address, which address
18 is not required to match the voter's certificate of
19 registration; or

20 (2) an original or copy of a utility bill,
21 bank statement, government check, paycheck or other government
22 document that shows the name and address of the person, the
23 address of which is not required to match the voter's
24 certificate of registration; or

25 B. a verbal or written statement by the voter of

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1 the voter's name, year of birth and unique identifier;
2 provided, however, that the statement of the voter's name need
3 not contain the voter's middle initial or suffix."

4 Section 7. Section 1-2-2 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 23, as amended) is amended to read:

6 "1-2-2. SECRETARY OF STATE--GENERAL DUTIES.--The
7 secretary of state shall:

8 A. generally supervise all elections;

9 B. administer the Election Code in its statewide
10 application especially as it relates to federal and state
11 elective offices;

12 C. prepare instructions for the conduct of election
13 and registration matters in accordance with the laws of the
14 state;

15 D. advise county clerks, boards of county
16 commissioners and boards of registration as to the proper
17 methods of performing their duties prescribed by the Election
18 Code;

19 E. report possible violations of the Election Code
20 of which [he] the secretary of state has knowledge to the
21 district attorney or the attorney general for prosecution;

22 F. cause to be published in pamphlet form and
23 distributed to the county clerk of each county for use by
24 precinct boards a sufficient number of copies of the Election
25 Code as it is from time to time amended and supplemented;

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1 G. be responsible for the education and training of
2 county clerks regarding elections;

3 H. be responsible for the education and training of
4 voting machine technicians; ~~and~~

5 I. assist the county clerks in the education and
6 training of registration officers ~~[and precinct boards]~~; and

7 J. recruit and train poll workers and other
8 election workers and certify the presiding judges of the
9 precinct boards."

10 Section 8. Section 1-2-4 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 25, as amended) is amended to read:

12 "1-2-4. SECRETARY OF STATE--TRAINING AND INSTRUCTIONS TO
13 PRECINCT BOARDS--TRAINING MANUAL.--

14 A. The secretary of state shall provide:

15 (1) instructions and training for the precinct
16 board, which shall include a brief nontechnical explanation of
17 their duties as required by the Election Code; and

18 (2) a single training manual containing
19 standard guidelines for the operations and processes of
20 statewide elections, including pre-election day activities,
21 election-day activities and post-election-day activities and
22 county and state canvassing processes.

23 B. When any specific duty is imposed by the
24 instructions issued under the Election Code, the duty shall be
25 deemed to be a requirement of the law."

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1 Section 9. Section 1-2-7 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 29, as amended) is amended to read:

3 "1-2-7. PRECINCT BOARD--QUALIFICATION OF MEMBERS--
4 QUALIFICATION OF PRESIDING JUDGES.--

5 A. In order to qualify as a member of the precinct
6 board, a person shall:

7 (1) be a resident of the representative
8 district and county in which the precinct where he is a voter
9 is located;

10 (2) be able to read and write;

11 (3) have the necessary capacity to carry out
12 his functions with acceptable skill and dispatch; and

13 (4) execute the precinct board member's oath
14 of office.

15 B. Before serving as a presiding judge of a
16 precinct board, a person shall receive training in the duties
17 of that position and be certified for the position by the
18 secretary of state.

19 ~~[B.]~~ C. No person shall be qualified for
20 appointment or service on a precinct board:

21 (1) who is a candidate for any federal, state,
22 district or county office;

23 (2) who is a spouse, parent, child, brother or
24 sister of any candidate to be voted for at the election; or

25 (3) who is a sheriff, deputy sheriff, marshal,

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1 deputy marshal or state or municipal policeman."

2 Section 10. Section 1-2-17 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 37, as amended) is amended to read:

4 "1-2-17. PRECINCT BOARD--SCHOOLS OF INSTRUCTION.--

5 A. The secretary of state shall supervise and the
6 county clerk shall cause to be held a public school of
7 instruction for all presiding judges, precinct boards and
8 others who will be officially concerned with the conduct of
9 elections. [~~in any county with a population of one hundred
10 thousand or more according to the most recent federal decennial
11 census.~~

12 ~~B. The county clerk shall cause to be held a public
13 school of instruction for all presiding judges, precinct boards
14 and others who will be officially concerned with the conduct of
15 the elections in any county having a population of less than
16 one hundred thousand according to the most recent federal
17 decennial census.~~

18 ~~G.]~~ B. The schools for instruction provided for in
19 this section shall be as follows:

20 (1) one school not less than three days before
21 the primary election;

22 (2) one school not less than three days before
23 the general election; and

24 (3) one school not less than three days before
25 any other statewide election.

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1 ~~[D.]~~ C. All major details of the conduct of
2 elections shall be covered by the secretary of state or the
3 secretary's authorized representative and the county clerk or
4 ~~[his]~~ the clerk's authorized representative at such school,
5 with special emphasis being given to recent changes in the
6 Election Code.

7 ~~[E.]~~ D. The school of instruction shall be open to
8 any interested person, and notice of the school shall be given
9 to the public press at least four days before the school is to
10 be held. Each member of the precinct board shall be notified
11 by mail at least seven days prior to commencement of the
12 school.

13 ~~[F.—No]~~ E. A person shall not serve as a judge or
14 member of a precinct board in any election ~~[who has not]~~ unless
15 that person has attended at least one such school of
16 instruction in the calendar year of the election at which ~~[he]~~
17 the person is appointed to serve or has been certified by the
18 ~~[county clerk]~~ secretary of state with respect to the person's
19 completion of the school of instruction. This subsection shall
20 not apply to filling of vacancies on election day as provided
21 in Subsection B of Section 1-2-15 NMSA 1978."

22 Section 11. Section 1-2-27 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 46, as amended) is amended to read:

24 "1-2-27. WATCHERS--APPOINTMENT.--

25 A. The county chairman or state chairman of each
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1 political party represented on the ballot may appoint in
2 writing two watchers for each precinct. If any county chairman
3 fails to make the appointments, the precinct chairman of the
4 political party may appoint in writing two watchers for the
5 precinct. If any precinct chairman fails to make the
6 appointments, or if no person properly appointed is present at
7 the polling place and offers to serve, the voters present
8 belonging to that political party may appoint in writing two
9 watchers.

10 B. In a general election, a candidate for elected
11 office and an election-related organization may appoint one
12 watcher per polling place if the candidate or organization
13 makes a written request to the secretary of state at least
14 [~~twenty~~] ten days prior to the election date and specifies the
15 polling place to be watched and the name of the qualified
16 appointee. The secretary of state shall notify the county
17 clerk of the qualified appointees at least [~~ten~~] five days
18 before the election. For the purposes of this section,
19 "election-related organization" means [~~a nonpartisan~~] an
20 organization involved in voter turnout activities.

21 C. In a primary election any group of six
22 candidates for county office for each political party
23 participating in the election may appoint in writing an
24 additional watcher for each precinct. No candidate, however,
25 shall join in more than one request for an additional watcher.

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1 D. In a primary election any group of three
2 candidates seeking nomination for statewide or district office
3 may appoint in writing one watcher for each of those precincts
4 as they may desire. No candidate, however, shall join in more
5 than one request for an additional watcher at any precinct."

6 Section 12. A new section of Chapter 1, Article 2 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] COUNTY CANVASS OBSERVERS.--

9 A. A candidate for elected office and an
10 election-related organization may each appoint one county
11 canvass observer per county if the candidate or organization
12 makes a written request to the secretary of state at least ten
13 days prior to the election date and specifies the county
14 canvass to be watched and the name of the qualified appointee.
15 A state or county chair of a qualified political party may
16 appoint as many observers as the chief election officer for
17 that county determines is functional; provided that the state
18 or county chair may appoint at least three observers and that
19 the number of observers for each major political party is
20 identical. The secretary of state shall notify the county
21 clerk of the qualified appointees at least five days before the
22 election.

23 B. County canvass observers shall be voters of a
24 precinct located in that county to which they are appointed.
25 No sheriff, deputy sheriff, marshal, deputy marshal, municipal

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1 or state police officer, candidate or person who is a spouse or
2 child of a candidate being voted on at the election shall serve
3 as a county canvass observer.

4 C. The county canvass observer, upon presentation
5 of the observer's written appointment to the county canvassing
6 board, shall be permitted to be present from the time the
7 county canvassing board begins until the completion of the
8 canvass.

9 D. Only one county canvass observer for each
10 candidate and each election-related organization in each county
11 shall be permitted at one time in the room in which the canvass
12 is being conducted. An observer is strictly limited to
13 observing and documenting the canvassing process, and may not
14 interrupt the canvassing process.

15 E. County canvass observers shall not interfere
16 with the orderly conduct of the canvass, and may be removed by
17 the chief election officer if the observer does not comply with
18 the law.

19 F. As used in this section, "election-related
20 organization" means an organization involved in voter turnout
21 activities."

22 Section 13. A new section of Chapter 1, Article 4 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] REGISTRATION--LACK OF PHYSICAL ADDRESS.--
25 If a qualified elector resides in an area lacking a specific
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1 physical address, the qualified elector shall be allowed to
2 substitute a map indicating where the qualified elector resides
3 for a physical address and register to voter. The voter shall
4 be assigned to a precinct based on the geographic description
5 of where the voter resides."

6 Section 14. Section 1-4-5 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 63, as amended) is amended to read:

8 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
9 INFORMATION--PENALTY.--

10 A. A qualified elector may apply to a registration
11 officer or agent for registration.

12 B. The registration officer or agent or qualified
13 elector shall fill out each of the blanks on [~~the original and~~
14 ~~the voter's copy of~~] the certificate of registration by typing
15 or printing in ink. [~~Carbon paper may be used between the~~
16 ~~original and the voter's copy.~~] The voter shall be given a
17 receipt, which may be a carbon copy, for the original, and the
18 registration agent shall receive a copy that omits the voter's
19 social security number and date of birth.

20 C. The qualified elector shall subscribe a
21 certificate of registration as follows:

22 (1) [~~a person shall sign his original~~] by
23 signing the certificate of registration using [~~his~~] the
24 qualified elector's given name, middle name or initial and last
25 name; or

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1 (2) if any qualified elector seeking to
2 register is unable to read and write either the English or
3 Spanish language or is unable to read or write because of some
4 physical disability, the certificate of such person shall be
5 filled out by a registration officer or agent and the name of
6 the qualified elector so registering shall be subscribed by the
7 making of [~~his~~] the qualified elector's mark.

8 D. When properly executed by the registration agent
9 or officer, the original [~~and the voter's copy~~] of the
10 certificate of registration shall be presented, either in
11 person or by mail by the qualified elector or by the
12 registration agent or officer, to the county clerk of the
13 county in which the qualified elector resides or the secretary
14 of state.

15 E. Only when the certificate of registration is
16 properly filled out, subscribed by the qualified elector and
17 accepted for filing by the county clerk as evidenced by [~~his~~]
18 the county clerk's signature or stamp and the date of
19 acceptance thereon shall it constitute an official public
20 record of the registration of the qualified elector. It is
21 unlawful for [~~any information~~] the voter's date of birth or any
22 portion of the voter's social security number required on the
23 certificate of registration to be copied, conveyed or used by
24 anyone other than the person registering to vote, either before
25 or after it is filed with the county clerk, except by elections

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1 administrators for purposes of the registration and voting
2 process.

3 F. A person who unlawfully copies, conveys or uses
4 information from a certificate of registration is guilty of a
5 fourth degree felony."

6 Section 15. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
7 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
8 as amended) is amended to read:

9 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

10 A. A qualified elector may apply for registration
11 by mail, [~~or~~] in the office of the secretary of state or county
12 clerk or with a registration agent or officer.

13 B. Certificate of registration forms may be
14 requested from the secretary of state or any county clerk in
15 person by telephone or by mail for oneself or for others.

16 C. Except as provided in Subsection D of this
17 section, a qualified elector who wishes to register to vote
18 shall fill out completely and sign the certificate of
19 registration. The qualified elector may seek the assistance of
20 any person in completing the certificate of registration.

21 D. A qualified elector who has filed for an order
22 of protection pursuant to the provisions of the Family Violence
23 Protection Act and who presents a copy of that order from a
24 state or tribal court to the registration officer shall not be
25 required to provide address information on the certificate of

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1 registration.

2 E. Completed certificates of registration may be
3 mailed or presented in person by the registrant or any other
4 person to the secretary of state or presented in person by the
5 registrant or any other person to the county clerk of the
6 county in which the registrant resides.

7 F. If the registrant wishes to vote in the next
8 election, the completed and signed certificate of registration
9 shall be delivered or mailed and postmarked at least twenty-
10 eight days before the election.

11 G. Upon receipt of a certificate of registration,
12 the secretary of state shall send the certificate to the county
13 clerk in the county where the qualified elector resides.

14 H. Only when the certificate of registration is
15 properly filled out, signed by the qualified elector and
16 accepted for filing by the county clerk as evidenced by ~~[his]~~
17 the county clerk's signature or stamp and the date of
18 acceptance thereon and when notice has been received by the
19 registrant shall it constitute an official public record of the
20 registration of the qualified elector.

21 I. The secretary of state shall prescribe the form
22 of the certificate of registration, which form shall be a
23 postpaid mail-in format and shall be printed in Spanish and
24 English. The certificate of registration form shall be clear
25 and understandable to the average person and shall include

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1 brief but sufficient instructions to enable the qualified
2 elector to complete the form without assistance. The form
3 shall also include:

4 (1) the question "Are you a citizen of the
5 United States of America?" and boxes for the applicant to check
6 to indicate whether the applicant is or is not a citizen;

7 (2) the question "Will you be at least
8 eighteen years of age on or before election day?" and boxes for
9 the applicant to check to indicate whether the applicant will
10 be eighteen years of age or older on election day;

11 (3) the statement "If you checked 'no' in
12 response to either of these questions, do not complete this
13 form."; and

14 (4) a statement informing the applicant that:

15 (a) if the form is [~~not~~] submitted [~~in~~
16 ~~person~~] by mail by the applicant and the applicant is
17 registering for the first time in New Mexico, the applicant
18 must submit with the form a copy of: 1) a current and valid
19 photo identification; or 2) a utility bill, bank statement,
20 government check, paycheck or other government document that
21 shows the name and address of the applicant; and

22 (b) if the applicant does not submit the
23 required identification, he will be required to do so when [~~he~~
24 ~~votes~~] voting in person or absentee."

25 Section 16. Section 1-5-7 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 109, as amended) is amended to read:

2 "1-5-7. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--
3 CONTENTS.--

4 A. The precinct voter lists and signature rosters
5 for any precinct shall contain for each voter, as shown in the
6 county register, the voter's:

- 7 (1) [~~his~~] name;
- 8 (2) gender;
- 9 (3) place of residence;
- 10 (4) last four digits of the voter's social
11 security number;
- 12 (5) year of birth;
- 13 (6) party affiliation, if any; and
- 14 (7) precinct of residence.

15 B. In addition, the names on each precinct voter
16 list and signature roster shall be numbered consecutively
17 beginning with the number "1".

18 C. On each page of each voter list and on each
19 signature roster there shall be printed the page number and the
20 date and name of the election for which they are to be used.

21 ~~[D. For those counties who, prior to June 18, 1993,~~
22 ~~utilized voter files that do not contain telephone numbers of~~
23 ~~registered voters, the provisions of Subsections J and L of~~
24 ~~Section 1-5-2 NMSA 1978 and Paragraph (4) of Subsection A of~~
25 ~~Section 1-5-7 NMSA 1978 regarding dissemination of voter~~

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1 ~~telephone numbers shall apply only to individuals registering~~
2 ~~to vote after January 1, 1994.]"~~

3 Section 17. Section 1-5-8 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 110, as amended) is amended to read:

5 "1-5-8. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--NUMBER--
6 DISTRIBUTION.--

7 A. One copy of the signature roster shall be
8 prepared for each precinct. On the cover of [~~such~~] the
9 signature roster shall be printed the words, "Copy for the
10 County Clerk". Upon its preparation and certification as to
11 its accuracy and completeness, the county clerk shall deliver
12 the copy of the signature roster to the precinct board [~~in lieu~~
13 ~~of the poll book~~].

14 B. The county clerk shall prepare three copies of
15 the precinct voter list for each precinct. Of the three copies
16 prepared, one copy shall not include voter social security
17 numbers. [~~He~~] The other two shall contain only the last four
18 digits of the voter's social security number. The county clerk
19 shall deliver two of the copies to each precinct board [~~in lieu~~
20 ~~of bound certificates of registration~~]. One copy of the voter
21 list shall be retained by the county clerk for verification
22 purposes on election day and one copy for the secretary of
23 state shall be marked to verify those voters on the list who
24 voted.

25 C. Two copies of the county voter list, arranged in

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1 alphabetical order, shall be prepared for election day for
2 verification purposes only."

3 Section 18. A new section of Chapter 1, Article 6 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] EARLY VOTING--USE OF ABSENTEE VOTING
6 PROCEDURES--ALTERNATE VOTING LOCATIONS.--

7 A. Commencing on the third Saturday prior to an
8 election, an early voter may vote in person on a voting system
9 at an alternate voting location established by the county
10 clerk. In class A counties with more than two hundred thousand
11 registered voters, the county clerk shall establish not less
12 than twelve alternate voting locations as a convenience to the
13 voters. For class A counties with two hundred thousand
14 registered voters or fewer, the county clerk shall establish
15 not less than four alternate voting locations. In non-class A
16 counties with more than ten thousand registered voters, the
17 county clerk shall establish at least one alternate voting
18 location. In non-class A counties with ten thousand registered
19 voters or fewer, early voting shall be conducted in the office
20 of the county clerk or at such alternative locations as may be
21 designated by the county clerk. Early voting may be done at an
22 alternate location from 12:00 p.m. to 8:00 p.m., Tuesday
23 through Friday, and 10:00 a.m. to 6:00 p.m. Saturday through
24 the Saturday immediately prior to the election.

25 B. When voting early, the voter shall provide the

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1 required voter identification to the county clerk or the
2 clerk's authorized representative. If the voter does not
3 provide the required voter identification, the voter shall be
4 allowed to vote on a provisional ballot. If the voter provides
5 the required identification, the voter shall be allowed to vote
6 after subscribing an application to vote in accordance with
7 secretary of state rules. The county clerk or the clerk's
8 authorized representative shall make an appropriate designation
9 on the signature roster next to the voter's name indicating
10 that the voter has voted early."

11 Section 19. A new section of Chapter 1, Article 6 NMSA
12 1978 is enacted to read:

13 "[NEW MATERIAL] THIRD PARTY AGENTS COLLECTING ABSENTEE
14 BALLOT APPLICATIONS.--

15 A. A person or organization that is not part of a
16 government agency and that collects absentee ballot
17 applications shall submit the applications to the appropriate
18 office for filing within twenty-four hours of their completion
19 or the next business day if the appropriate office is closed
20 for that twenty-four hour period.

21 B. A person who intentionally alters or fails to
22 submit a completed absentee ballot application is guilty of a
23 fourth degree felony."

24 Section 20. Section 1-6-4 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 130, as amended by Laws 2003, Chapter 356,
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1 Section 18 and by Laws 2003, Chapter 357, Section 1) is amended
2 to read:

3 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
4 ELECTOR--OVERSEAS VOTER.--

5 A. Application by a federal qualified elector or an
6 overseas voter for an absentee ballot shall be made on the
7 official postcard form prescribed or authorized by the federal
8 government to the county clerk of the county of his residence.
9 The form shall allow the applicant to receive an absentee
10 ballot for all elections within an election cycle.

11 B. Application by a voter for an absentee ballot
12 shall be made only on a form prescribed by the secretary of
13 state. The form shall identify the applicant and contain
14 information to establish his qualification for issuance of an
15 absentee ballot under the Absent Voter Act; provided that on
16 the application form [~~for a general election ballot~~] there
17 shall be no box, space or place provided for designation of the
18 voter's political party affiliation. [~~The form shall allow the~~
19 ~~applicant to receive an absentee ballot for all elections~~
20 ~~within an election cycle.~~]

21 C. Each application for an absentee ballot shall be
22 subscribed by the applicant and shall require the applicant's
23 printed name, year of birth and unique identifier to be
24 supplied by the applicant, which shall constitute an acceptable
25 form of identification, except for new registrants that have

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1 registered by mail and at that time did not provide acceptable
2 identification.

3 D. An application for an absentee ballot by a
4 federal qualified elector or an overseas voter shall be
5 accepted at any time preceding the general election."

6 Section 21. Section 1-6-5 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 131, as amended by Laws 2003, Chapter 355,
8 Section 4 and by Laws 2003, Chapter 356, Section 19 and also by
9 Laws 2003, Chapter 357, Section 2) is amended to read:

10 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT
11 [~~MARKING AND DELIVERY OF BALLOT IN PERSON~~].--

12 A. The county clerk shall mark each completed
13 absentee ballot application with the date and time of receipt
14 in the clerk's office and enter the required information in the
15 absentee ballot register. The county clerk shall then
16 determine if the applicant is a voter, an absent uniformed
17 services voter or an overseas voter.

18 B. If the applicant does not have a valid
19 certificate of registration on file in the county and [he] is
20 not a federal qualified elector or if the applicant states [he]
21 that the applicant is a federal qualified elector but [his] the
22 application indicates [he] the applicant is not a federal
23 qualified elector, an absentee ballot shall not be issued and
24 the county clerk shall mark the application "rejected" and file
25 the application in a separate file from those accepted.

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1 C. The county clerk shall notify in writing each
2 applicant of the fact of acceptance or rejection of ~~[his]~~ the
3 application and, if rejected, shall explain why the application
4 was rejected.

5 D. If the applicant has on file with the county a
6 valid certificate of registration that indicates that the
7 applicant is a voter who is a new registrant and who registered
8 by mail without submitting the required voter identification,
9 the county clerk shall notify the voter that ~~[he]~~ the voter
10 must submit with ~~[his]~~ the absentee ballot ~~[a copy of a current~~
11 ~~and valid photo identification; utility bill, bank statement,~~
12 ~~government check, paycheck or other government document that~~
13 ~~shows the name and address of the applicant]~~ the required
14 physical form of identification. The county clerk shall note
15 on the absentee ballot register and signature roster that the
16 applicant's absentee ballot must be returned with the required
17 identification.

18 E. If the county clerk finds that the applicant is
19 a voter other than a federal qualified elector or overseas
20 voter, the county clerk shall mark the application "accepted"
21 and, beginning twenty-eight days before the election, deliver
22 an absentee ballot to the voter in the county clerk's office or
23 mail to the applicant an absentee ballot and the required
24 envelopes for use in returning the ballot. If the county clerk
25 finds that the applicant is a federal qualified elector or

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1 overseas voter, the county clerk shall mark the application
2 "accepted" and beginning forty-five days before the election,
3 mail to the applicant an absentee ballot and the required
4 envelopes for use in returning the ballot. Acceptance of an
5 application of a federal qualified elector constitutes
6 registration for the election in which the ballot is to be
7 cast. Acceptance of an application from an overseas voter who
8 is not an absent uniformed services voter constitutes a request
9 for changing information on the certificate of registration of
10 any such voter. An absent voter shall not be permitted to
11 change [his] party affiliation during those periods when change
12 of party affiliation is prohibited by the Election Code. Upon
13 delivery of an absentee ballot to a voter in the county clerk's
14 office or mailing of an absentee ballot to an applicant who is
15 a voter, an appropriate designation shall be made on the
16 signature line of the signature roster next to the name of the
17 voter who has been provided or mailed an absentee ballot.

18 ~~[F. If an application for an absentee ballot is~~
19 ~~delivered in person to the county clerk and is accepted, the~~
20 ~~county clerk shall provide the voter an absentee ballot and it~~
21 ~~shall be marked by the applicant in a voting booth of a type~~
22 ~~prescribed by the secretary of state, sealed in the proper~~
23 ~~envelopes and otherwise properly executed and returned to the~~
24 ~~county clerk or his authorized representative before the voter~~
25 ~~leaves the office of the county clerk.]~~ The act of marking the

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1 absentee ballot in the office of the county clerk shall be a
2 convenience to the voter in the delivery of the absentee ballot
3 and does not make the office of the county clerk a polling
4 place subject to the requirements of a polling place [~~in the~~
5 ~~Election Code other than is provided in this subsection~~]. It
6 [~~shall be~~] is unlawful to solicit votes, display or otherwise
7 make accessible any posters, signs or other forms of campaign
8 literature whatsoever in the clerk's office or alternate voting
9 location. [~~Absentee ballots may be marked in person at the~~
10 ~~county clerk's office during the regular hours and days of~~
11 ~~business beginning on the twenty-eighth day preceding the~~
12 ~~election and from 10:00 a.m. to 6:00 p.m. on the Saturday~~
13 ~~immediately prior to the date of the election. In marking the~~
14 ~~absentee ballot, the voter, pursuant to the provisions of~~
15 ~~Section 1-12-15 NMSA 1978, may be assisted by one person of the~~
16 ~~voter's choice.~~

17 G. ~~Commencing on the third Saturday prior to an~~
18 ~~election, an absent voter may vote in person, on an electronic~~
19 ~~voting machine at an alternate location established by the~~
20 ~~county clerk. In class A counties with more than two hundred~~
21 ~~thousand registered voters, the county clerk shall establish~~
22 ~~not less than twelve alternate voting locations as a~~
23 ~~convenience to the voters. For class A counties with two~~
24 ~~hundred thousand registered voters or less, the county clerk~~
25 ~~shall establish not less than four alternate voting locations.~~

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1 ~~In non-class A counties with more than ten thousand registered~~
2 ~~voters, the county clerk shall establish at least one alternate~~
3 ~~voting location. In non-class A counties with ten thousand~~
4 ~~registered voters or less, early voting shall be conducted in~~
5 ~~the office of the county clerk or at such alternative locations~~
6 ~~as may be designated by the county clerk. Absentee voting may~~
7 ~~be done at an alternate location from 12:00 p.m. to 8:00 p.m.,~~
8 ~~Tuesday through Friday, and 10:00 a.m. to 6:00 p.m. Saturday~~
9 ~~through the Saturday immediately prior to the election. The~~
10 ~~county clerk shall ensure that procedures established for~~
11 ~~processing an absent voter application and for voting by~~
12 ~~absentee ballot are complied with at each alternate location.~~

13 ~~H.]~~ F. Absentee ballots shall be airmailed or, if
14 so requested, electronically transmitted to applicants
15 temporarily domiciled inside or outside the continental limits
16 of the United States not later than on the ~~[Thursday]~~ Friday
17 immediately prior to the date of the election.

18 ~~[F.]~~ G. An absentee ballot shall not be delivered
19 or mailed by the county clerk to any person other than the
20 applicant for such ballot.

21 ~~[J.]~~ ~~The county clerk shall accept and process, with~~
22 ~~respect to a primary or general election for any federal~~
23 ~~office, any otherwise valid voter registration application from~~
24 ~~an absent uniformed services voter or overseas voter if the~~
25 ~~application is received not less than thirty days before the~~

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1 ~~election. The county clerk shall also accept and process~~
2 ~~federal write-in absentee ballots from overseas voters in~~
3 ~~general elections for federal offices in accordance with the~~
4 ~~provisions of Section 103 of the federal Uniformed and Overseas~~
5 ~~Citizens Absentee Voting Act.~~

6 K.] H. The secretary of state and each county clerk
7 shall make reasonable efforts to publicize and inform voters of
8 the times and locations for absentee voting; provided, however,
9 that notice is provided at least ten days before early voting
10 begins."

11 Section 22. Section 1-6-5.4 NMSA 1978 (being Laws 1999,
12 Chapter 267, Section 3) is amended to read:

13 "1-6-5.4. SECURITY--COUNTING AND CANVASSING.--

14 A. The secretary of state shall adopt rules for
15 protecting the integrity, security and secrecy of the absentee
16 ballots, including procedures specifying that machines and
17 ballot containers remain locked and that ballots not be removed
18 prior to election day; procedures for voting by absentee
19 ballot; separation of absentee ballots voted on electronic
20 voting machines twenty days before the election from those
21 received through the mail; disposition of absentee ballots
22 rejected by a voting machine; and handling of, registering,
23 counting and canvassing of absentee ballots [~~and sorting of~~
24 ~~absentee ballots by representative district for canvassing~~
25 ~~purposes~~].

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1 B. As used in Chapter 1, Article 6 NMSA 1978,
2 "registering of absentee ballots" means inserting the paper
3 absentee ballot into an electronic voting system for recording
4 and retention."

5 Section 23. Section 1-6-8 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 134, as amended) is amended to read:

7 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

8 A. The secretary of state shall prescribe the form
9 of, procure and distribute to each county clerk a supply of:

10 (1) official inner envelopes for use in
11 sealing the completed absentee ballot;

12 (2) official mailing envelopes for use in
13 returning the official inner envelope to the county clerk;
14 provided the official mailing envelope for absentee ballots in
15 a general election shall contain no designation of party
16 affiliation;

17 (3) absentee ballot instructions, describing
18 proper methods for completion of the ballot and returning it;
19 and

20 (4) official transmittal envelopes for use by
21 the county clerk in mailing absentee ballot materials.

22 B. Official transmittal envelopes and official
23 mailing envelopes for transmission of absentee ballot materials
24 to and from the county clerk and federal qualified electors
25 shall be printed in red in the form prescribed by the federal

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1 Uniformed and Overseas Citizens Absentee Voting Act. Official
2 transmittal envelopes and official mailing envelopes for
3 transmission of absentee ballot materials to and from the
4 county clerk and voters shall be printed in black in
5 substantially similar form. All official inner envelopes shall
6 be printed in black.

7 C. The reverse of each official mailing envelope
8 shall contain a form to be executed by the voter completing the
9 absentee ballot. The form shall identify the voter and shall
10 contain the following statement: "I will not vote in this
11 election other than by the enclosed ballot. I will not receive
12 or offer any compensation or reward for giving or withholding
13 any vote."

14 D. The official mailing envelope shall contain a
15 space for the voter to record the voter's unique identifier,
16 year of birth and name. The envelope shall have a security
17 flap to cover this information."

18 Section 24. Section 1-6-9 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 135, as amended) is amended to read:

20 "1-6-9. MANNER OF VOTING.--

21 A. A person voting pursuant to the Absent Voter Act
22 shall secretly mark [~~his~~] the absentee ballot in the manner
23 provided in the Election Code for marking emergency paper
24 ballots, place it in the official inner envelope and securely
25 seal the envelope. The voter shall then place the official

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1 inner envelope and, if required by Section 1-6-5 NMSA 1978, a
2 copy of the required physical form of identification inside the
3 official mailing envelope and securely seal the envelope. The
4 voter shall then complete the form on the reverse of the
5 official mailing envelope, which shall include an affirmation
6 by the voter under penalty of perjury that the facts stated in
7 the form are true and the voter's name, year of birth and
8 unique identifier.

9 B. Federal qualified electors and overseas voters
10 shall either deliver or mail the official mailing envelope or
11 electronically transmit the absentee ballot to the county clerk
12 of their county of residence or deliver it to a person
13 designated by federal authority to receive executed ballots for
14 transmission to the county clerk of the county of residence or
15 former residence as the case may be. Voters shall either
16 deliver or mail the official mailing envelope to the county
17 clerk of their county of residence."

18 Section 25. Section 1-6-10 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 136, as amended) is amended to read:

20 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

21 A. The county clerk shall mark on each completed
22 official mailing envelope the date and time of receipt in the
23 clerk's office, record this information in the absentee ballot
24 register and safely keep the official mailing envelope unopened
25 in a locked and number-sealed ballot box [~~except as provided in~~

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1 ~~Subsection H of Section 1-6-14 NMSA 1978~~] until it is delivered
2 [~~on election day~~] to the proper absent voter precinct board or
3 until it is canceled and destroyed in accordance with law.

4 B. The county clerk shall accept completed official
5 mailing envelopes until 7:00 p.m. on election day. Any
6 completed official mailing envelope received after that time
7 shall not be delivered to a precinct board but shall be
8 preserved by the county clerk until the time for election
9 contests has expired. In the absence of a restraining order
10 after expiration of the time for election contests, the county
11 clerk shall destroy all late official mailing envelopes without
12 opening or permitting the contents to be examined, cast,
13 counted or canvassed. Before their destruction, the county
14 clerk shall count the numbers of late ballots from voters,
15 federal voters, overseas citizen voters and federal qualified
16 electors and report the number from each category to the
17 secretary of state.

18 C. At 5:00 p.m. on the Monday immediately preceding
19 the date of election, the county clerk shall record the numbers
20 of the unused absentee ballots and shall publicly destroy in
21 the county clerk's office all such unused ballots. The county
22 clerk shall execute a certificate of destruction, which shall
23 include the numbers on the absentee ballots destroyed. A copy
24 of the certificate of destruction shall be sent to the
25 secretary of state."

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1 Section 26. Section 1-6-10.1 NMSA 1978 (being Laws 2003,
2 Chapter 357, Section 5) is amended to read:

3 "1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--A
4 voter, caregiver to that voter or member of that voter's
5 immediate family may deliver that voter's absentee ballot to
6 the county clerk in person or by mail, provided that the voter
7 has subscribed the outer envelope of the absentee ballot."

8 Section 27. Section 1-6-11 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 137, as amended) is amended to read:

10 "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER
11 PRECINCTS.--

12 A. Beginning on the Thursday immediately preceding
13 election day, the county clerk may deliver to the special
14 deputy county clerk for delivery to the absent voter precinct
15 board the absentee ballots received prior to the delivery day.
16 The special deputy county clerk shall issue a receipt for all
17 ballots delivered for the county clerk and shall observe the
18 listing of the names on the official mailing envelopes in the
19 signature rosters. The special deputy county clerk shall then
20 obtain a receipt executed by the presiding judge and each
21 election judge and shall return the receipt to the county clerk
22 for filing. The receipts shall specify the number of envelopes
23 received by the special deputy county clerk from the county
24 clerk for the absent voter precinct and the number of envelopes
25 received by the absent voter precinct board from the special

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1 deputy county clerk.

2 ~~[A.]~~ B. On election day, the county clerk shall
3 deliver ~~[the]~~ all absentee ballots not yet delivered to the
4 absent voter precinct board but received prior to 7:00 p.m. on
5 election day to the special deputy county clerks for delivery
6 to the absent voter precinct boards. ~~[The absentee ballots for~~
7 ~~each absent voter precinct shall be separately wrapped, and]~~
8 The special deputy county clerk shall issue a receipt for all
9 ballots delivered for the county clerk ~~[Upon delivery of the~~
10 ~~absentee ballots to the absent voter precinct board, the~~
11 ~~special deputy county clerk shall remain in the polling place~~
12 ~~of the absent voter precinct until he has observed the opening~~
13 ~~of the official mailing envelope, the deposit of the ballot in~~
14 ~~the locked ballot box]~~ and shall observe the listing of the
15 names on the official mailing envelope in the signature
16 rosters. ~~[Upon such delivery of absentee ballots]~~ The special
17 deputy county clerk shall then obtain a receipt executed by the
18 presiding judge and each election judge and ~~[he]~~ shall return
19 ~~[such]~~ the receipt to the county clerk for filing. The
20 receipts shall specify the number of envelopes received by the
21 special deputy county clerk from the county clerk for each
22 absent voter precinct and the number of envelopes received by
23 the absent voter precinct board from the special deputy county
24 clerk.

25 ~~[B.]~~ C. At 7:00 a.m. on the Thursday prior to

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1 election day or on the day the absent voter precinct board
2 begins early processing of absentee ballots, the county clerk
3 shall deliver the electronic voting machines used for absentee
4 voting by mail to the absent voter precinct board. The
5 machines shall not be used to vote on or count additional
6 ballots for that election. A special deputy county clerk shall
7 issue a receipt for each voting machine. Upon delivery of a
8 voting machine, the special deputy shall:

9 (1) obtain a receipt executed by the presiding
10 judge and each election judge specifying the serial number and
11 the seal number of the machine [~~and shall~~];

12 (2) verify the public counter number on the
13 machine; and [~~he shall~~]

14 (3) return the receipt to the county clerk for
15 filing."

16 Section 28. Section 1-6-14 NMSA 1978 (being Laws 1971,
17 Chapter 317, Section 11, as amended by Laws 2003, Chapter 354,
18 Section 1 and by Laws 2003, Chapter 356, Section 22) is amended
19 to read:

20 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
21 PRECINCT BOARDS.--

22 A. Before opening an official mailing envelope, the
23 presiding judge and the election judges shall determine that
24 the required information has been completed on the reverse side
25 of the official mailing envelope.

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1 B. If the voter's signature is missing, the
2 presiding judge shall write "Rejected" on the front of the
3 official mailing envelope. The election clerks shall enter the
4 voter's name in the signature rosters and shall write the
5 notation "Rejected--Missing Signature" in the "Notations"
6 column of the signature rosters. The presiding judge shall
7 place the official mailing envelope unopened in an envelope
8 provided for rejected ballots, seal the envelope and write the
9 voter's name on the front of the envelope and deposit it in the
10 locked ballot box.

11 C. A lawfully appointed challenger may examine the
12 official mailing envelope and may challenge the ballot of any
13 absent voter for the following reasons:

14 (1) the official mailing envelope has been
15 opened prior to being received by the absent voter precinct
16 board; or

17 (2) the person offering to vote is not a
18 federal voter, federal qualified elector, overseas voter or
19 voter as provided in the Election Code.

20 Upon the challenge of an absentee ballot, the election
21 judges and the presiding election judge shall follow the same
22 procedure as when ballots are challenged when a person attempts
23 to vote in person. If a challenge is upheld, the official
24 mailing envelope shall not be opened but shall be placed in an
25 envelope provided for challenged ballots. The same procedure

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1 shall be followed in canvassing and determining the validity of
2 challenged absentee ballots as with other challenged ballots.

3 D. If the official mailing envelope has been
4 properly subscribed and the voter has not been challenged:

5 ~~[(1) the election judges shall open the~~
6 ~~official mailing envelope and deposit the ballot in its still-~~
7 ~~sealed official inner envelope in the locked ballot box; and~~

8 ~~(2)]~~ (1) the election clerks shall enter the
9 absent voter's name and residence address as shown on the
10 official mailing envelope in the signature rosters and shall
11 mark the notation "AB" opposite the voter's name in the
12 "Notations" column of the signature rosters; and

13 (2) only between 8:00 a.m. and 5:00 p.m. on
14 the five days preceding election day, including Saturday and
15 Sunday, and beginning at 7:00 a.m. on election day, under the
16 personal supervision of the presiding election judge, shall the
17 election judges open the official mailing envelope and the
18 official inner envelope and insert the enclosed ballot into an
19 electronic voting machine to be registered and retained until
20 votes are counted and canvassed following the closing of the
21 polls on election night.

22 E. ~~[Prior to the closing of the polls, the election~~
23 ~~judges and the presiding election judge may either remove the~~
24 ~~absentee ballots from the official inner envelopes and count~~
25 ~~and tally the results of absentee balloting or, under the~~

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1 ~~personal supervision of the presiding election judge and one~~
2 ~~election judge from each major political party, count and tally~~
3 ~~the absentee ballots on an electronic voting machine the same~~
4 ~~as if the absent voters had been present and voted in person.]~~

5 It is unlawful for a person to disclose the results of a count
6 and tally or the registration on a voting machine of absentee
7 ballots prior to the closing of the polls.

8 F. Absentee ballots shall be counted and tallied on
9 an electronic voting machine as provided in the Election Code.

10 G. Absent voter precinct polls shall close at the
11 time prescribed by the Election Code for other polling places,
12 and the results of the election shall be certified as
13 prescribed by the secretary of state.

14 ~~[H. The county clerk may convene the absent voter~~
15 ~~precinct board no more than three days before the day of the~~
16 ~~election to alphabetize, enter on the roster and sort the~~
17 ~~absentee ballots by legislative district; provided that a~~
18 ~~member of the absent voter precinct board shall not open an~~
19 ~~official mailing envelope or count and canvass any absentee~~
20 ~~ballot prior to the day of the election.~~

21 ~~F.]~~ H. If an absentee ballot does not contain the
22 identification required pursuant to Subsection D of Section
23 1-6-5 NMSA 1978, it shall be handled as a provisional paper
24 ballot in accordance with the Election Code."

25 Section 29. Section 1-6-20 NMSA 1978 (being Laws 1969,

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1 Chapter 54, Section 3, as amended) is amended to read:

2 "1-6-20. CREATION OF ABSENT VOTER PRECINCT.--

3 A. The board of county commissioners shall adopt a
4 resolution creating, for absent voting purposes only, an absent
5 voter precinct for each [~~state representative district in the~~
6 ~~county. The boundaries of such precinct shall coincide with~~
7 ~~the boundaries of the state representative district except for~~
8 ~~multicounty representative districts. In multicounty~~
9 ~~representative districts, the boundaries of the absent voter~~
10 ~~precinct in each county shall coincide with the boundaries of~~
11 ~~that portion of the representative district lying within the]~~
12 county.

13 B. Absent voter precincts shall be identified by
14 the name of the county [~~and the state representative district~~
15 ~~number. In the case of multicounty representative districts,~~
16 ~~the absent voter precinct in each county shall be distinguished~~
17 ~~by the name of the county]."~~

18 Section 30. Section 1-6-22 NMSA 1978 (being Laws 1969,
19 Chapter 54, Section 4, as amended) is amended to read:

20 "1-6-22. DESIGNATION OF ABSENT VOTER PRECINCT POLLING
21 PLACE.--The board of county commissioners of each county shall
22 designate a polling place in each absent voter precinct at the
23 time [~~such~~] the precinct is created [~~or consolidated~~]."

24 Section 31. Section 1-6-23 NMSA 1978 (being Laws 1975,
25 Chapter 255, Section 95, as amended) is amended to read:

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1 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON
2 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or
3 statutorily appointed supervisor of the election shall
4 determine the hours during which the absent voter precinct
5 polling place shall be open for delivery and registering of
6 absentee ballots on the five days preceding election day and
7 the delivery, registering and counting of ballots on election
8 day and subsequent days until all ballots are counted."

9 Section 32. Section 1-8-52 NMSA 1978 (being Laws 1977,
10 Chapter 322, Section 8, as amended) is amended to read:

11 "1-8-52. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
12 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITIONS--
13 CIRCULATION--DATE OF FILING.--

14 A. Declarations of independent candidacy and
15 nominating petitions shall be filed with the proper filing
16 officer during the period commencing at 9:00 a.m. on the
17 [~~second Tuesday of July~~] day following the primary election of
18 each even-numbered year and ending at 5:00 p.m. on that same
19 day and not later than 5:00 p.m. on the fifty-sixth day
20 preceding any United States representative special election.

21 B. Declarations of independent candidacy and
22 nominating petitions for the office of president of the United
23 States shall be filed with the proper filing officer during the
24 period commencing at 9:00 a.m. on the [~~fifty-sixth day prior to~~
25 ~~the general election~~] day following the primary election and

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1 ending at 5:00 p.m. on the same day."

2 Section 33. A new section of Chapter 1, Article 9 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] VOTING SYSTEM--USE OF PAPER TRAIL.--

5 A. All voting systems used in elections covered by
6 the Election Code shall have a verifiable and auditable paper
7 trail; provided, however, that voting systems owned or used by
8 a county on the effective date of this 2005 act that do not
9 have an auditable paper trail may be used until the first
10 occurrence of the following:

11 (1) sufficient federal, state or local funds
12 are appropriated to replace those voting systems; or

13 (2) December 31, 2006.

14 B. In any event, no voting system shall be used
15 that has not been certified by the secretary of state.

16 C. As used in this section, "auditable paper trail"
17 means a record that may be used by the state or its contractor
18 to check either the veracity of a machine count or the count
19 itself."

20 Section 34. Section 1-9-4.2 NMSA 1978 (being Laws 2003,
21 Chapter 356, Section 9) is amended to read:

22 "1-9-4.2. DEFINITION OF A VOTE.--

23 A. A vote on a touch-screen direct recording
24 electronic voting system or electronic voting system consists
25 of a voter's selection of a candidate or answer to a ballot

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1 question selected by the electro-optical ballot display of the
2 device, followed by the voter activating the cast vote
3 indicator.

4 B. A vote on a paper ballot card used on an
5 electronic vote tabulating marksense voting system, optical
6 scan vote tabulating system or high-speed central count
7 marksense vote tabulator consists of a voter's selection of a
8 candidate or answer to a ballot question indicated in the
9 voting response area of the paper ballot card marked in
10 accordance with the instructions for that ballot type. If the
11 paper ballot card is marked indistinctly or not marked
12 according to the instructions for that ballot type, only a
13 cross (X) or a check (✓) within the voting response area shall
14 be counted. A vote on a paper ballot card shall also be
15 counted if, on a ballot type requiring the completion of an
16 arrow to indicate a voter's selection, the voter has marked an
17 arrowhead on the tail portion of the arrow in the voting
18 response area or has circled the name of the preferred
19 candidate."

20 Section 35. A new section of Chapter 1, Article 12 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] CONDUCT OF ELECTION--ELECTION DAY VOTING
23 BY ABSENTEE VOTERS--PROCEDURES.--

24 A. A voter who requested and received an absentee
25 ballot shall be allowed to vote on election day in the precinct

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1 in which the voter is registered if the voter presents the
2 absentee ballot to the election judge and follows the
3 procedures for voting described in Section 1-12-10 NMSA 1978.

4 B. If the absentee ballot is not voted on, the
5 election judge shall note on the signature roster that the
6 voter voted in person, record the number of the absentee ballot
7 and mark the absentee ballot "Rejected". Rejected absentee
8 ballots collected at the polling place shall be handled as are
9 other rejected absentee ballots. If the absentee ballot is
10 voted on, the election judge shall accept the valid absentee
11 ballot and have it delivered to the absent voter precinct board
12 for counting and tallying upon the closing of the polls."

13 Section 36. A new section of Chapter 1, Article 12 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] QUALIFYING PROVISIONAL, ABSENTEE AND
16 OTHER PAPER BALLOTS.--

17 A. The secretary of state shall issue rules to
18 create a uniform process and set of criteria for deciding if
19 provisional, absentee and other paper ballots shall be counted.

20 B. When qualifying provisional, absentee and other
21 paper ballots, middle initials, suffixes and addresses shall
22 not be dispositive as to whether that person's ballot is
23 qualified and counted in the vote totals, provided that the
24 county clerk can otherwise verify the person is a voter based
25 on the information provided on the outer envelope of the paper

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1 ballot or affidavit."

2 Section 37. Section 1-5-10 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 112, as amended) is recompiled as Section
4 1-12-7.1 NMSA 1978 and is amended to read:

5 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING
6 ELECTION.--

7 A. Each precinct board using voter lists shall post
8 securely at or near the entrance of the polling place one copy
9 of the precinct voter list for use of the voters prior to
10 voting. The posted copy shall not contain a listing of voter
11 social security numbers.

12 B. The presiding judge of the precinct board shall
13 assign one judge of the board to be in charge of one copy of
14 the precinct voter list, which shall be used to confirm the
15 registration and voting of each person offering to vote.

16 C. The presiding judge of the precinct board shall
17 assign one election clerk to be in charge of the signature
18 roster.

19 D. The judge assigned to the precinct voter list
20 used for confirmation of registration and voting shall
21 determine that each person offering to vote is registered and,
22 in the case of a primary election, that the voter is registered
23 in a party designated on the primary election ballot. If the
24 person's registration is confirmed by the presence of ~~[his]~~ the
25 person's name on the voter list ~~[or if the person presents a~~

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1 ~~certificate under the seal and signature of the county clerk~~
2 ~~showing that he is entitled to vote in the election and to vote~~
3 ~~in that precinct]~~ and the voter provides the required voter
4 identification, the judge shall announce to the election clerks
5 the list number and the name of the voter as shown on the voter
6 list. If the voter does not provide the required voter
7 identification, the voter shall be allowed to vote on a
8 provisional ballot and shall provide the required voter
9 identification to the county clerk's office or precinct board
10 before the polls close, or the voter's provisional ballot shall
11 not be qualified. If the required voter identification is
12 provided, the voter's provisional ballot shall be qualified and
13 the voter shall not vote on any other type of ballot.

14 E. The election clerk shall locate that list number
15 and name on the signature roster and shall require the voter to
16 sign [~~his~~] the voter's usual signature or, if unable to write,
17 to make [~~his~~] the voter's mark opposite [~~his~~] the voter's
18 printed name. If the voter makes [~~his~~] the voter's mark, it
19 shall be witnessed by one of the judges of the precinct board.
20 If the signature roster indicates that the voter is required to
21 present a physical form of identification before voting, the
22 election judge shall ask the voter for [~~a current and valid~~
23 ~~photo identification or a copy of a current utility bill, bank~~
24 ~~statement, government check, paycheck or other government~~
25 ~~document that shows and matches the name and address of the~~

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1 ~~voter as indicated on the signature roster]~~ the required
2 physical form of identification. If the voter does not provide
3 the required identification, ~~[he]~~ the voter shall be allowed to
4 vote on a provisional paper ballot; provided, however, that if
5 the voter brings acceptable proof of identification to the
6 polling place after casting a provisional ballot, that ballot
7 shall be spoiled and the voter shall vote on the voting system
8 for that precinct.

9 F. The election judge shall follow the procedures
10 provided for in Sections ~~[1-5-12]~~ 1-12-7.2 and 1-12-8 NMSA 1978
11 if a person whose name does not appear on the signature list
12 requests to vote or a person is required to vote on a
13 provisional paper ballot.

14 G. A voter shall not be permitted to vote until
15 ~~[he]~~ the voter has properly signed ~~[his]~~ the voter's usual
16 signature or made ~~[his]~~ the voter's mark in the signature
17 roster.

18 H. After the poll is closed, the election clerk in
19 charge of a signature roster shall draw a single horizontal
20 line in ink through each signature space in the signature
21 roster where no signature or mark appears."

22 Section 38. Section 1-12-8 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 247, as amended) is amended to read:

24 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

25 A. A person shall be permitted to vote on a

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1 provisional paper ballot even though ~~[his]~~ the person's
2 original certificate of registration cannot be found in the
3 county register or even if ~~[his]~~ the person's name does not
4 appear on the signature roster, provided:

5 (1) ~~[his]~~ the person's residence is within the
6 boundaries of the county in which ~~[he]~~ the person offers to
7 vote;

8 (2) ~~[his]~~ the person's name is not on the list
9 of persons submitting absentee ballots; and

10 (3) ~~[he]~~ the person executes a statement
11 swearing or affirming to the best of ~~[his]~~ the person's
12 knowledge that ~~[he]~~ the person is a qualified elector, is
13 currently registered and eligible to vote in that county and
14 has not cast a ballot or voted in that election.

15 B. A voter shall vote on a provisional paper ballot
16 if the voter:

17 (1) has not previously voted in a general
18 election in New Mexico or has been purged from the voter list;

19 (2) ~~[did not register to vote in person]~~
20 registered to vote by mail;

21 (3) did not submit the physical form of the
22 required voter identification with the certificate of
23 registration form; and

24 (4) does not present to the election judge
25 ~~[one of the following forms of]~~ a physical form of the required

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1 ~~voter identification [that matches the name and address on the~~
2 ~~voter's certificate of registration~~

3 ~~(a) a current and valid photo~~
4 ~~identification; or~~

5 ~~(b) a copy of a current utility bill,~~
6 ~~bank statement, government check, paycheck or other government~~
7 ~~document that shows the name and address of the voter].~~

8 C. A voter shall vote on a provisional ballot in
9 accordance with the provisions of Section 1-12-7.1 NMSA 1978 if
10 the voter does not provide the required voter identification to
11 the election judge.

12 ~~[E.]~~ D. An election judge shall have the voter sign
13 the signature roster and issue the voter a provisional paper
14 ballot, an outer envelope and an official inner envelope. The
15 voter shall vote on the provisional paper ballot in secrecy and
16 when done, place the ballot in the official inner envelope and
17 place the official inner envelope in the outer envelope and
18 return it to the precinct officer. The election judge shall
19 ensure that the required information is completed on the outer
20 envelope, have the voter sign it in the appropriate place and
21 place it in an envelope designated for provisional paper
22 ballots.

23 ~~[D.]~~ E. Knowingly executing a false statement
24 constitutes perjury as provided in the Criminal Code of this
25 state, and voting on the basis of such falsely executed

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1 statement constitutes fraudulent voting."

2 Section 39. Section 1-12-10 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 249, as amended) is amended to read:

4 "1-12-10. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
5 SIGNATURE.--

6 A. When a voter presents himself at the polls to
7 vote, he shall announce his name and address in an audible tone
8 of voice. When an election judge finds the voter's name in the
9 signature roster, he shall in like manner repeat the name of
10 the voter. The election judge shall then ask the voter to
11 provide the required voter identification. The voter shall
12 then sign his name or make his mark on the signature line in
13 the copy of the signature roster to be returned to the county
14 clerk. Upon the voter's name or mark being written in the
15 signature roster, a challenge may be interposed as provided in
16 the Election Code.

17 B. If a voter fails to provide the required voter
18 identification, the voter shall be allowed to vote on a
19 provisional ballot."

20 Section 40. Section 1-12-10.1 NMSA 1978 (being Laws 2003,
21 Chapter 356, Section 2) is amended to read:

22 "1-12-10.1. CONDUCT OF ELECTIONS--VOTER INFORMATION.--

23 A. The secretary of state shall issue rules
24 describing the voter information the county clerks shall
25 display, in accordance with the federal Help America Vote Act

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1 of 2002, in each polling place on election day and in each
2 county clerk's office and alternate location where absentee or
3 early voting is taking place.

4 B. Each polling place shall post a map of the
5 precincts represented in that polling place and an alphabetical
6 list of the voters in each precinct represented in that polling
7 place."

8 Section 41. Section 1-12-19.1 NMSA 1978 (being Laws 1981,
9 Chapter 156, Section 2, as amended) is amended to read:

10 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--WRITE-
11 IN CANDIDATES.--

12 A. A person desiring to be a write-in candidate in
13 a [~~general election, a~~] special election for United States
14 representative or a statewide special election shall file with
15 the proper filing officer a declaration of intent to be a
16 write-in candidate. The declaration of intent shall be filed
17 between 9:00 a.m. and 5:00 p.m. on the sixty-third day
18 immediately preceding the election. A person desiring to be a
19 write-in candidate in a general election shall file the
20 declaration of intent between 9:00 a.m. and 5:00 p.m. on the
21 day after the primary election.

22 B. The form of the declaration of intent shall be
23 prescribed by the secretary of state and shall contain a sworn
24 statement by the candidate that [~~he~~] the candidate is qualified
25 to be a candidate for and to hold the office for which [~~he~~] the

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1 candidate is filing.

2 C. At the time of filing the declaration of intent
3 to be a write-in candidate, the write-in candidate shall be
4 considered a candidate for all purposes and provisions relating
5 to candidates in the Election Code, including the obligation to
6 report under the Campaign Reporting Act, except that [~~he~~] the
7 candidate shall not be entitled to have [~~his~~] the candidate's
8 name printed on the ballot.

9 D. The secretary of state shall, not less than ten
10 days before the general election, certify the names of the
11 declared write-in candidates to the county clerks of every
12 county affected by such candidacy.

13 E. No person shall be a write-in candidate in the
14 general election who was a candidate in the primary election
15 immediately prior to the general election.

16 F. A vote for a write-in candidate shall be counted
17 and canvassed only if:

18 (1) the name written in is the name of a
19 declared write-in candidate and shows two initials and last
20 name; first name, middle initial or name and last name; first
21 and last name; or the full name as it appears on the
22 declaration of intent to be a write-in candidate and
23 misspellings of the above combinations that can be reasonably
24 determined by a majority of the members of the precinct board
25 to identify a declared write-in candidate; and

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1 (2) the name is written in the proper office
2 or entered upon the keyboard on the voting machine or on the
3 proper line provided on a marksense ballot, absentee ballot or
4 emergency paper ballot for write-in votes for the office for
5 which the candidate has filed a declaration of intent.

6 G. No unopposed write-in candidate shall have [~~his~~]
7 an election certified unless [~~he~~] the candidate receives at
8 least the number of write-in votes as [~~he~~] the candidate would
9 need signatures on a nominating petition pursuant to the
10 requirements in Section 1-8-33 NMSA 1978.

11 H. A write-in vote shall be cast by writing in the
12 name. As used in this section, "write-in" does not include the
13 imprinting of any name by rubber stamp or similar device or the
14 use of preprinted stickers or labels."

15 Section 42. Section 1-12-25.3 NMSA 1978 (being Laws 2003,
16 Chapter 356, Section 6) is amended to read:

17 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED
18 INFORMATION.--

19 A. At a minimum, the following information shall be
20 printed on the outer envelope for a provisional paper ballot:

- 21 (1) the name and signature of the voter;
22 (2) the voter's registered address, both
23 present and former if applicable;
24 (3) the voter's date of birth;
25 (4) the reason for using the ballot;

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1 (5) the precinct and the polling place at
2 which the voter has voted;

3 (6) the voter's social security number; and

4 (7) sufficient space to list the disposition
5 of the ballot after review by the county clerk.

6 B. A provisional paper ballot shall not be rejected
7 for lack of the information required by this section and shall
8 be qualified as long as the voter provides a valid signature
9 and sufficient information for the clerk to determine
10 [~~eligibility~~] the voter is a qualified elector."

11 Section 43. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
12 Chapter 356, Section 7) is amended to read:

13 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

14 A. Upon closing of the polls, provisional paper
15 ballots shall be delivered to the county clerk, who shall
16 determine if the ballots will be counted prior to certification
17 of the election.

18 B. A provisional paper ballot shall not be counted
19 if the registered voter did not sign either the signature
20 roster or the ballot's envelope.

21 C. If there is no record of the voter ever having
22 been registered in the county, the voter shall be offered the
23 opportunity to register and the provisional paper ballot shall
24 not be counted.

25 D. If the voter was registered in the county, the

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1 registration was later canceled and the county clerk determines
2 that the cancellation was in error, the voter's registration
3 shall be immediately restored and the provisional paper ballot
4 counted.

5 E. If the county clerk determines that the
6 cancellation was not in error, the voter shall be offered the
7 opportunity to register at the voter's correct address, and the
8 provisional paper ballot shall not be counted.

9 F. If the voter is a registered voter in the
10 county, but has voted on a provisional paper ballot at a
11 polling place other than the voter's designated polling place,
12 the county canvassing board shall ensure that only those votes
13 for the positions or measures for which the voter was eligible
14 to vote are counted.

15 G. If the county clerk finds that the voter who
16 voted on a provisional paper ballot at the polls has also voted
17 an absentee ballot in that election, the provisional paper
18 ballot shall not be counted.

19 H. The county canvassing board shall prepare a
20 tally displaying the number of provisional paper ballots
21 received, the number found valid and counted, the number
22 rejected and not counted and the reason for not counting the
23 ballots as part of the canvassing process and forward it to the
24 secretary of state immediately upon certification of the
25 election.

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1 I. The secretary of state shall issue rules to
2 ensure securing the secrecy of the provisional paper ballots,
3 especially during canvassing, reviewing or recounting, and
4 protecting against fraud in the voting process."

5 Section 44. Section 1-5-11 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 113, as amended) is recompiled as Section
7 1-12-30.1 NMSA 1978 and is amended to read:

8 "1-12-30.1. VOTER LISTS--SIGNATURE ROSTERS--DISPOSITION
9 AFTER THE POLLS CLOSE.--

10 A. After the polls are closed, the signature roster
11 shall be properly certified by the precinct board and returned
12 to the county clerk with the election returns destined for the
13 county clerk. The precinct voter list marked for the secretary
14 of state shall be returned to the secretary of state with the
15 election returns destined for the secretary of state.

16 B. The signed and certified signature rosters used
17 in any election shall be considered a part of the election
18 returns and treated accordingly. They shall be preserved and
19 finally disposed of in the same manner as provided in the
20 Election Code [~~for poll books~~] and 42 U.S.C. 1974.

21 C. [~~The punishment for willful destruction,~~
22 ~~defacement, unauthorized alteration or improper disposition]~~
23 Whoever willfully destroys, defaces, alters without
24 authorization or improperly disposes of signature rosters used
25 in an election [~~shall be the same as for similar treatment of~~

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1 ~~poll books~~] is guilty of a fourth degree felony."

2 Section 45. Section 1-12-53 NMSA 1978 (being Laws 1977,
3 Chapter 222, Section 56, as amended) is amended to read:

4 "1-12-53. EMERGENCY SITUATIONS--VOTERS--EMERGENCY PAPER
5 BALLOT--GENERAL ELECTION--MARKING.--The voter in preparing an
6 emergency paper ballot in a general election shall [A. ~~if he~~
7 ~~wishes to vote a straight party ticket, mark a cross (X) or a~~
8 ~~check (V) in the circle beneath the name of the party and his~~
9 ~~vote shall be considered as having been cast for every~~
10 ~~candidate named on the ticket of that party on the ballot,~~
11 ~~unless he also votes for one or more candidates in some other~~
12 ~~column or for some person whose name is not printed on the~~
13 ~~ballot;~~

14 B. ~~if he marks a cross (X) or a check (V) in any~~
15 ~~circle and also desires to vote for a candidate of another~~
16 ~~political party (the ticket of which also appears on the~~
17 ~~ballot) or for any person by write-in, mark a cross (X) or a~~
18 ~~check (V) in the box immediately to the right of the name of~~
19 ~~the candidate or write in the name of the person for whom he~~
20 ~~desires to vote in the blank provided therefor and mark a cross~~
21 ~~(X) or a check (V) in the box immediately to the right thereof,~~
22 ~~and his vote shall be considered as having been cast for every~~
23 ~~candidate of the political party below the party name where he~~
24 ~~marked his cross (X) or a check (V) in the circle, except for~~
25 ~~the candidates for whom he has otherwise voted; or~~

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1 ~~C. if he wishes, mark the ballot by omitting the~~
2 ~~cross (X) or check (V) in the circle and marking a cross (X) or~~
3 ~~a check (V) in the box immediately to the right of the name of~~
4 ~~every candidate or person for whom he desires to vote, and his~~
5 ~~vote shall be considered as having been cast only for the~~
6 ~~candidate or person opposite whose name the cross or check has~~
7 ~~been marked]~~ mark the ballot in accordance with the
8 instructions for that ballot type."

9 Section 46. A new section of Chapter 1, Article 14 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] CONTESTS, RECOUNTS AND RECHECKS--
12 PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS.--The secretary
13 of state shall issue rules governing and allowing procedures
14 for reviewing the qualification of provisional, absentee and
15 other paper ballots in the case of a contest, recount or
16 recheck of election results. All provisional paper ballot
17 envelopes shall be included in any contest, recount or recheck
18 of election results, and a review of the qualification of
19 provisional ballots shall occur in a recount."

20 Section 47. Section 1-14-15 NMSA 1978 (being Laws 1978,
21 Chapter 48, Section 1, as amended) is amended to read:

22 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

23 A. An applicant for a recount shall deposit with
24 the proper canvassing board or, in the case of an office for
25 which the state canvassing board issues a certificate of

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1 nomination or election, with the secretary of state fifty
2 dollars (\$50.00) in cash, or a sufficient surety bond in an
3 amount equal to fifty dollars (\$50.00), for each precinct for
4 which a recount is demanded. An applicant for a recheck shall
5 deposit with the proper canvassing board or, in the case of an
6 office for which the state canvassing board issues a
7 certificate of nomination or election, with the secretary of
8 state ten dollars (\$10.00) in cash, or a sufficient surety bond
9 in an amount equal to ten dollars (\$10.00), for each voting
10 machine to be rechecked.

11 B. The deposit or surety bond shall be security for
12 the payment of the costs and expenses of the recount or recheck
13 in case the results of the recount or recheck are not
14 sufficient to change the results of the election. The state
15 canvassing board may condition the issuance of the summons on a
16 receipt of a portion of or the full estimated costs of the
17 recount or recheck to ensure sufficient security.

18 C. If it appears that error or fraud sufficient to
19 change the winner of the election has been committed, the costs
20 and expenses of the recount or recheck shall be paid by the
21 state upon warrant issued by the secretary of finance and
22 administration supported by a voucher of the secretary of
23 state, or shall be paid by the county upon warrant of the
24 county clerk from the general fund of the county, as the case
25 may be.

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